

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on June 12, 2007, and the references cited therewith. By this response, claim 29 is amended and claim 30 is withdrawn. Claims 2-23 and 26 have been previously cancelled and claim 25 was previously withdrawn; as a result, claims 1, 24 and 27-29, are now pending in this application.

Information Disclosure Statement

Applicant submits herewith an Information Disclosure Statement and a 1449 Form. Applicant respectfully requests that initialed copies of the 1449 Forms be returned to Applicants' Representatives to indicate that the cited references have been considered by the Examiner.

Priority

Applicant has amended the priority claim to provide additional clarity. Applicant's amendment notwithstanding, Examiner asserts that Applicant has not complied with the conditions for receiving the benefit of an earlier filing date under 35 U.S.C. § 120 because the priority application (Serial No.: 09/028,372) does not "disclose an emanator material physically separated from the housing as recited in claims 1 and 28-30." Applicant respectfully disagrees. The priority application, now issued as United States Patent No.: 6,109,539 discloses an emanator material physically separated from the housing in the specification associated with Figure 10. In Column 8, lines 54-66, the patent teaches a housing being positioned above and emanator pad such that drips can leave the housing and fall onto the emanator pad. Lines 63-66 specifically identify two ways that this can be accomplished: 1) with the emanator pad placed within the housing, and 2) with the emanator pad "maintained separately from the housing." Accordingly, Applicant requests that Examiner withdraw his priority rejection.

Drawings

The drawings were objected to because claim 30 includes a limitation directed to a gas generating cell, which isn't disclosed in the drawing that defines the elected species. By this amendment, claim 30 has been withdrawn. Applicant suggests that in view of this withdrawal, the rejection is moot.

§112 Rejection of the Claims

Claims 28 and 29 were rejected under 35 USC § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, Examiner asserts that the phrase "opening not associated with a valve mechanism" in claims 28 and 29 is not supported by the specification. Applicant believes that the Examiner meant to reject claims 29 and 30 on this basis, as these claims are the only ones to contain the phrase in question. Applicant hereby amends claim 29 to remove the phrase "opening not associated with a valve mechanism," and has withdrawn claim 30 from consideration. Accordingly, Applicant requests that this rejection be withdrawn.

§103 Rejection of the Claims

Claims 1, 24 and 28-30 were rejected under 35 USC § 103(a) as being unpatentable over Ohayon (U.S. 5,810,253) in view of Muramoto et al. (U.S. 4,477,414). Claim 27 was rejected under 35 USC § 103(a) as being unpatentable over Ohayon (U.S. 5,810,253) in view of Muramoto et al. (U.S. 4,477,414) and further in view of DeLuca (4,294,776). As examiner is aware, 35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 706.02(j). The Examiner suggests that the Ohayon reference teaches an emanator that is physically separate from the housing. The Examiner cites number 40 as referencing the emanator and number 30 as referencing the housing. Applicant agrees that element 40 is the emanator in Ohayon, but element 20, not 30, is the housing. In Column 8, lines

53 to 54, Ohayon states "[t]he housing (20) further comprises an absorbent matrix (40) located below the said reservoir (30)." Thus, it is clear that in Ohayon, the emanator is part of the housing, not separate from it. This also supported by the figures which clearly show the housing 20 as an integral part of the emanator 40 and the reservoir 30. In contrast, Applicant teaches the away from the emanator being a part of the housing. This arrangement provides flexibility in the distance the emanator can be from the housing and thus teaches away from Ohayon which fixes the emanator to the housing. Accordingly, Ohayon does not teach every limitation of Applicant's claims. Neither DeLuca nor Muramoto provide this missing limitation. Thus, Applicant requests that Examiner' 103 rejection be withdrawn.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (801-978-2186) if Examiner believes such a call would facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3586

Respectfully submitted,

ASHOK V. JOSHI ET AL.

By their Representatives,

Date

9/12/2007

By



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